

## Message Text

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ACTION OES-07

INFO OCT-01 ARA-14 IO-14 ISO-00 L-03 EB-08 CA-01  
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O R 252101Z APR 78  
FM AMEMBASSY SAN JOSE  
TO SECSTATE WASHDC IMMEDIATE 0911  
INFO AMEMBASSY MEXICO CITY  
USMISSION GENEVA

UNCLAS SAN JOSE 1820

GENEVA PASS AMBASSADOR CLINGAN, LOS DEL

E.O. 11652: N/A  
TAGS: EFIS CS  
SUBJ: STATUS REPORT ON TUNA BOAT SEIZURES - APRIL 25

REF: SAN JOSE 1778

1. SUMMARY. AFTER FOUR DAYS' DELAY DUE TO WEEKEND HIATUS AS WELL AS LEGAL MANEUVERINGS, TWO US AND ONE CANADIAN FLAG TUNA BOATS WERE ORDERED RELEASED EARLY AFTERNOON APRIL 25.

2. AFTER WEEK-END OF INACTIVITY, COURT IN PUNTARENAS HELD HEARING ON CASE MONDAY MORNING, APRIL 24. JUDGE DECIDED THAT BECAUSE OF LOCALE OF TUNA BOAT CAPTURE, HIS COURT DID NOT HAVE JURISDICTION OVER THE CASE. ACCORDINGLY, HE TRANSFERRED THE CASE TO THE COURT OF SANTA CRUZ WHOSE GEOGRAPHIC AREA OF JURISDICTION MOST CLOSELY APPROXIMATES LOCALE WHERE SEIZURE OCCURRED. PUNTARENAS JUDGE DID, HOWEVER, TAKE DEPOSITIONS FROM BOAT CAPTAINS; THESE DEPOSITIONS, ALONG WITH OTHER PERTINENT DOCUMENTS, WERE HAND-CARRIED BY PUNTARENAS COURT OFFICIAL ON MONDAY AFTERNOON TO SANTA CRUZ. TUNA BOAT CAPTAINS, ACCOMPANIED BY CONSUL AND LAWYER, ARRIVED IN SANTA  
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CRUZ AT ABOUT 4:00 PM. THE COURT IN SANTA CRUZ WAS NOT IN SESSION AS THE JUDGE AND THE FISCAL (PROSECUTING ATTORNEY) WERE BOTH IN SAN JOSE, CONSUL WAS INFORMED THAT JUDGE WOULD BE RETURNING TO SANTA CRUZ LATE THAT NIGHT AND THAT THE COURT WOULD HOLD SESSION FOLLOWING DAY.

3. IN MEANTIME, FONMIN GONZALO FACIO HAD MADE STATEMENTS TO THE

PRESS ON MONDAY MORNING RELATING TO THE SEIZURE. SAN JOSE AFTERNOON DAILY, "LA PRENSA LIBRE," BANNER HEADLINED TUNA BOAT STORY FOCUSING ON FACIO'S STATEMENT. STORY QUOTED FACIO AS SAYING, "THE BOATS CAPTURED IN OUR TERRITORIAL WATERS OF THE PACIFIC ARE NOT PIRATE BOATS BECAUSE THEY WERE FISHING FULLY WITHIN THEIR LEGAL RIGHTS IN ACCORDANCE WITH THE INTER-AMERICAN TROPICAL TUNA CONVENTION. THEREFORE THE BOATS AND THEIR CREWS SHOULD BE RELEASED IMMEDIATELY." STORY ALSO SAID THAT FACIO STATED THAT IMMEDIATELY AFTER THE CAPTURE OF THE BOATS THE FOREIGN MINISTRY HAD RECEIVED A PROTEST FROM THE GOVERNMENTS OF THE US AND CANADA, COUNTRIES THAT ALONG WITH COSTA RICA ARE MEMBERS OF IATTC. FACIO ALSO EXPOUNDED ON THE BACKGROUND OF IATTC STRESSING INTERNATIONAL OBLIGATIONS OF MEMBER COUNTRIES, THE HIGHLY MIGRATORY NATURE OF TUNA AND THUS THE NEED FOR INTERNATIONAL COOPERATION, AND THE FACT THAT IATTC OPEN SEASON WAS IN PROGRESS. FACIO STATEMENT ENDED "THEREFORE, THE BOATS THAT WERE CAPTURED WHICH BELONG TO IATTC MEMBER NATIONS (US AND CANADA) WERE FISHING FULLY WITHIN THEIR RIGHTS IN ACCORDANCE WITH THE INTERNATIONAL TREATY THAT REGULATES TROPICAL TUNA FISHERIES." LEADING SAN JOSE MORNING DAILIES, "LA NACION" AND "LA REPUBLICA" CARRIED SIMILAR STORIES ON APRIL 25.

4. ON TUESDAY MORNINLMN APRIL 25, THE COURT IN SANTA CRUZ HELD SESSION AND RECEIVED DOCUMENTS ON ZPHE CASE. AFTER RECEIPT OF DOCUMENTS JUDGE ORDERED A RECESS AND INFORMED CTJSUL THAT HE HAD PLACED CALL TO FONMIN TO SEEK CLARIFICATION OF LEGAL POINTS RELATED TO GOCR INTERNATIONAL OBLIGATIONS. WHEN CONSUL INFORMED EMBASSY THAT

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FONMIN HAD NOT RETURNED JUDGE'S CALL AFTER PASSAGE OF ONE HOUR, EMBOFF CALLED FACIO ADVISING THAT SANTA CRUZ JUDGE WAS TRYING TO CONTACT HIM AND GAVE HIM JUDGE'S PHONE NUMBER. FACIO TOLD EMBOFF THAT HE WOULD CALL JUDGE AT ONCE. SHORTLY AFTERWARD THAT SAME MORNING, CONSUL QUERIED JUDGE RE PROGRESS IN CASE. JUDGE ADVISED CONSUL THAT HE HAD BEEN IN CONTACT WITH FONMIN FACIO AND THAT HE WOULD BE DISMISSING THE CHARGES BUT THAT HE HAD TO PREPARE A WRITTEN JUDICIAL OPINION FIRST. JUDGE ADVISED CONSUL THAT COURT'S OPINION ANDSCECISION WOULD BE AVAILABLE AT 2:15 PM LOCAL TIME. CONSUL HASSINFORMED EMBASSY THAT HE NOW HAS COPY OF JUDGE'S DECISION AND IS PROCEEDING TO PUNTARENAS WITH BOAT CAPTAINS TO ASSIST IN DEPARTURE OF BOATS FROM PUNTARENAS THIS EVENING.

5. EMBASSY COMMENTS FOLLOW SEPTTEL.  
WEISSMAN

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## Message Attributes

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